

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re CIT GROUP INC. SECURITIES	:	Master File No. 1:08-cv-06613-BSJ-THK
LITIGATION	:	
	:	<u>CLASS ACTION</u>
	:	
This Document Relates To:	:	NOTICE OF DISMISSAL OF DEFENDANT
	:	CIT GROUP INC.
ALL ACTIONS.	:	
	X	

Lead Plaintiff Pensioenfonds Horeca & Catering and named plaintiff Don Pizzuti (collectively, “Plaintiffs”) hereby submit this Notice of Dismissal of Defendant CIT Group Inc. (“CIT” or the “Company”).

## **I. BACKGROUND**

This is a securities fraud case against CIT and certain of the Company’s current or former officers and directors: Jeffrey M. Peek; Joseph M. Leone; Thomas B. Hallman; William J. Taylor; Gary C. Butler; William M. Freeman; Susan Lyne; Marianne Miller Parrs; Timothy M. Ring; John Ryan; Seymour Sternberg; Peter J. Tobin; and Lois M. Van Deusen (collectively, the “Individual Defendants”). Plaintiffs allege that during the period December 12, 2006 through March 5, 2008 (the “Class Period”) defendants violated the federal securities law by issuing numerous false and misleading statements about CIT’s subprime home loan and student loan portfolios and failed to adequately reserve for the impairments to those loan portfolios in accordance with Generally Accepted Accounting Principles (“GAAP”). On July 16, 2009 Plaintiffs filed their Consolidated Complaint for Violations of the Federal Securities Laws (“Complaint”). Docket No. 65. On September 11, 2009, defendants filed their motion to dismiss the Complaint. Docket No. 73. On October 23, 2009, Plaintiffs opposed defendants’ motion to dismiss. Docket No. 87. Defendants’ reply brief is due to be filed on November 25, 2009.

On November 1, 2009, defendant CIT filed a petition for relief under Title 11 of the United States Code in United States Bankruptcy Court for the Southern District of New York. *In re CIT Group, et al.*, Case No. 09-16565. The United States Bankruptcy Court for the Southern District of New York granted CIT Title 11 relief. *See id.* Pursuant to Bankruptcy Code, 11 U.S.C. §362, there is an automatic stay as to prosecuting this action against defendant CIT. *See also* Notice of Bankruptcy (Docket No. 88).

## **II. PLAINTIFFS HEREBY DISMISS CIT FROM THE CASE**

Considering these events, Plaintiffs now seek to dismiss CIT from this action.<sup>1</sup> To date, no answer has been filed and no class has been certified. Accordingly, pursuant to Fed. R. Civ. P. 23(e) and 41(a), voluntary dismissal is appropriate.

## **III. CONCLUSION**

For the foregoing reasons, Plaintiffs notify this Court of their voluntary dismissal of CIT without prejudice from this action.

DATED: November 16, 2009

Respectfully submitted,

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<sup>1</sup> In the Second Circuit, post-filing dismissal of an action against a debtor is permissible so long as it is consistent with the purpose of the automatic stay statute to ease the burden on the debtor and prevent creditors from pursuing their own remedies against debtor's property. *In re Lyondell Chem. Co.*, 402 B.R. 596, 605 (Bankr. S.D.N.Y. 2009) (citing *Indep. Union of Flight Attendants v. Pan Am. World Airways, Inc.*, 966 F.2d 457, 459 (9th Cir. 1992)).

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CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 16, 2009.

s/ TOR GRONBORG  
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### Manual Notice List

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